

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

MARK FULTZ,

Plaintiff,

V.

BAMOZA, LLC,

Defendant.

Case No. 2:18-cv-01229-DCN

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Bamoza, LLC (“Defendant”) notices removal of the state court civil action known as *Mark Fultz v. Bamoza, LLC*, Case No. 2018-CP-10-1727 (the “Complaint”), from the Court of Common Pleas of Charleston County, South Carolina, to the United States District Court for the District of South Carolina, Charleston Division. In support of removal, Defendant states as follows:

1. Plaintiff Mark Fultz (“Plaintiff”) filed the Complaint against Defendant on or about April 5, 2018. A true and correct copy of the Complaint is attached hereto as **Exhibit A**.
2. As of the date of this filing, no pleadings, motions, or papers other than the Complaint have been filed in the state court civil action.
3. As set forth more fully below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Defendant has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

GROUND FOR REMOVAL

I. Removal Is Proper Because This Court Has Subject Matter Jurisdiction Under 28 U.S.C. § 1331.

1. United States District Courts are vested with jurisdiction to consider cases or controversies “arising under” the laws of the United States of America. *See* 28 U.S.C. § 1331.

2. Removal of such cases is governed by 28 U.S.C. § 1441(a), which provides that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a).

3. This is a civil action wherein Plaintiff seeks injunctive relief and attorney’s fees and costs based upon claims of violations of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (the “ADA”). *See* Ex. A (Compl. ¶¶ 1-13). A copy of all process, pleadings, and orders served on Defendant in this action prior to the filing of this Notice of Removal is attached as **Exhibit B**.

4. Plaintiff’s Complaint, alleging violation of a federal statute, the ADA, arises under the laws of the United States, and thus this Court has federal question jurisdiction. *See* 28 U.S.C. § 1331.

II. The Defendant Has Satisfied The Procedural Requirements For Removal.

5. A copy of the Summons and Complaint were served upon the registered agent of Defendant on April 6, 2018, less than 30 days before the filing of this Notice of Removal.

6. This Notice of Removal is timely because it is filed within 30 days of service of the Complaint on Defendant. 28 U.S.C. § 1446(b)(3).

7. Venue is proper in the District of South Carolina because it is the district and division embracing Charleston County, the place where Plaintiff's state court civil action is pending. *See* 28 U.S.C. §§ 1441 & 1446(a).

8. No previous request has been made for the relief requested herein.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal, together with all exhibits, is being promptly filed in the Court of Common Pleas of Charleston County, South Carolina. *See* Notice of Filing Notice of Removal (attached as **Exhibit C**). Written notice of the filing of this Notice of Removal also will be promptly provided to counsel for Plaintiff.

WHEREFORE, Defendant gives notice that the above-referenced action, *Mark Fultz v. Bamoza, LLC*, Case No. 2018-CP-40-1727, originally filed in the Court of Common Pleas of Charleston County, South Carolina, is hereby removed to the United States District Court for the District of South Carolina, Charleston Division, pursuant to 28 U.S.C. §§ 1441 and 1446, and the Defendant requests that this Court retain jurisdiction for all further proceedings in this matter.

Respectfully submitted,

s/ E. Brandon Gaskins

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CHARLESTON, SC
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